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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, JANUARY 31, 2003

PETITION OF

CAVALIER TELEPHONE, LLC

v.

CASE NO. PUC-2002-00089

VERIZON VIRGINIA INC.

For enforcement of interconnection  
agreement

**FINAL ORDER**

On April 19, 2002, Cavalier Telephone, LLC ("Cavalier"), filed a Petition for Enforcement of Interconnection Agreement with the State Corporation Commission ("Commission"). Cavalier requested that the Commission enforce certain terms of an interconnection agreement it has entered into with Verizon Virginia Inc. ("Verizon Virginia"). Verizon Virginia filed a responsive pleading to the petition on May 10, 2002, and also moved the Commission to dismiss the matter.

On May 22, 2002, the Commission issued an Order permitting Cavalier to reply to Verizon Virginia's pleading by May 31, 2002, and continued the matter generally. Cavalier filed its reply to Verizon Virginia's response on May 24, 2002. Verizon Virginia filed a reply to Cavalier's response on June 3, 2002.

On November 7, 2002, the Commission issued an Order requesting that the parties file additional comments addressing specific questions raised in the Order. Both Cavalier and

Verizon Virginia filed comments on these questions on December 2, 2002, and reply comments on December 16, 2002.

NOW THE COMMISSION, having considered the pleadings, declines to rule on the issues raised in Cavalier's petition. The principle dispute between the parties involves the interpretation of the Second Amendment to the Interconnection Agreement ("Agreement"). In general, the Commission believes that purely contractual disputes may be more appropriately addressed by courts of general jurisdiction.<sup>1</sup>

In this instance, we sought additional information from Cavalier and Verizon Virginia in our November 7, 2002, Order, primarily to determine whether the quality of service provided to end user customers would be impacted if Cavalier and Verizon Virginia converted the existing two-way trunks to one-way trunks. However, in both Cavalier's and Verizon Virginia's December 2, 2002, comments, the parties note that by letter dated November 22, 2002, Cavalier provided Verizon Virginia 60 days' written notice that it wished to terminate the Second Amendment to the Agreement. Because the Second Amendment – which is the subject of this petition – was terminated on or about January 21, 2003, the service quality concerns may no longer be appropriately addressed in this case.<sup>2</sup> It appears that since the Second Amendment has been terminated, the remaining issue between the parties relates only to payments claimed to be due under the contract. Because this dispute is primarily one of contractual interpretation, and considering the limitations on the Commission's authority to award money damages, we believe these issues are more appropriately resolved by the courts of general jurisdiction.

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<sup>1</sup> However, the Federal Communications Commission ("FCC") may be an appropriate forum, for example, when disputes over interconnection agreements between telecommunications carriers also involve the interpretation of a FCC rule or regulation.

<sup>2</sup> If, however, cancellation of the Second Amendment results in the elimination of two-way trunking arrangements between the parties, which in turn causes increased network blockage, the Commission may always initiate an investigation in a separate proceeding, if necessary.

Accordingly, IT IS ORDERED THAT:

- (1) The petition filed by Cavalier herein is hereby dismissed without prejudice.
- (2) There being nothing further to come before the Commission, this matter is dismissed from the docket, and the record developed herein shall be placed in the file for ended causes.